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FACSIMILE SUBMISSION UNDER 37 CFR 1.8

TO:	FROM:
Petitions Branch	Kent J. Sieffert
COMPANY:	DATE:
USPTO	SEPTEMBER 1, 2005
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
1-571-273-8300	27
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
	1009-001US02
RE:	APPLICATION SERIAL NUMBER:
Petition to Withdraw Notice of Abandonment	09/975,628

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PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: David W. Biessener; Confirmation No. 9397
Joseph A. Frolik; Gaston
R. Biessener
Serial No.: 09/975,628
Filed: October 12, 2001 Customer No.: 28863
Examiner: Mehdi Namazi
Group Art Unit: 2188
Docket No.: 1009-001US02
Title: COMPUTER STORAGE RESTORATION

CERTIFICATE UNDER 37 CFR 1.8: I hereby certify that this correspondence is being deposited with the United States Post Service, as First Class Mail, in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450 on September 1, 2005.

By: 

Name: Karen Sorrensen

Mail Stop Petitions
Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

We are transmitting herewith the attached correspondence relating to this application:

- ☒ Transmittal sheet containing Certificate of Mailing
- ☒ Petition for Withdrawal of Notice of Abandonment (2 pgs.)
- ☒ Exhibit A
- ☒ Return postcard

Applicant has submitted this Petition via facsimile and is also submitting the Petition in duplicate via U.S. Post Service. Please apply any charges not covered, or any credits, to Deposit Account No. 50-1778.

Date:

September 1, 2005

By:

Kent J. Sieffert

Name: Kent J. Sieffert

Reg. No.: 41,312

SHUMAKER & SIEFFERT, P.A.
8425 Seasons Parkway, Suite 105
St. Paul, Minnesota 55125
Telephone: 651.735.1100
Facsimile: 651.735.1102

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SEP 01 2005

PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	David W. Biessener; Joseph A. Frolik; Gaston R. Biessener	Confirmation No.	9397
Serial No.:	09/975,628	Customer No.:	28863
Filed:	October 12, 2001	Examiner:	Mehdi Namazi
		Group Art Unit:	2188
		Docket No.:	1009-001US02

Title: COMPUTER STORAGE RESTORATION

CERTIFICATE UNDER 37 CFR 1.8: I hereby certify that this correspondence is being deposited with the United States Post Service, as First Class Mail, in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450 on September 1, 2005.

By: 
Name: Karen SorensenPETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT

MAIL STOP PETITION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby Petitions for withdrawal of the Holding of Abandonment for this application in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513 (D.D.C. 1971) and 1156 OG 53. Filed with this Petition as required by 1156 OG 53 are:

- (1) A statement that the Notice of Allowance and Fees Due was not received by Applicant;
- (2) A statement attesting to the fact that a search of the file jacket and docket record indicates that the Notice of Allowance and Fees Due was not received; and
- (3) A copy of the docket record where the non-received Notice of Allowance and Fees Due would have been entered had it been received and docketed (Exhibit A).

STATEMENTS

In August, 2005, the Applicant realized that a Notice of Allowance and Fees Due mailed May 6, 2005 was not received by the Applicant. In particular, only by accessing the USPTO PAIR database did the Applicant become aware that the Notice of Allowance and Fees Due was not received. Upon this discovery, the Applicant performed a search of the file jacket and docket record, which confirmed the Notice of Allowance and Fees Due was not received by the Applicant. Although a Notice of Abandonment has not issued, Examiner Mano Padmanabhan indicated that Applicant should consider the status as abandoned in order to proceed with the petition for the above-referenced application.

A copy of the Applicant's docket record where the non-received Notice of Allowance and Fees Due would have been entered had it been received and docketed is included with this Petition as Exhibit A. Specifically, Exhibit A is a record of all correspondence received from the United States Patent and Trademark Office from May 6, 2005 through May 31, 2005. If the May 6, 2005 Notice of Allowance and Fees Due had been received by the Applicant, it would have been recorded in the record reproduced in Exhibit A and indicated by Docket Number 1009-001US02.

Applicant submits that the statutory period for reply to the May 6, 2005 Notice of Allowance and Fees Due required under 35 U.S.C. §133 has not commenced because the Office failed to provide a Notice of Allowance and Fees due in accordance with 35 U.S.C. §133.

It is the Applicant's belief that this petition does not requiring an accompanying fee. If this is not the case, however, please charge any required fees to Deposit Account No. 50-1778.

The Office is invited to telephone the undersigned representative if any questions should arise.

Date:

September 1, 2005

SHUMAKER & SIEFFERT, P.A.
8425 Seasons Parkway, Suite 105
St. Paul, Minnesota 55125
Telephone: 651.735.1100
Facsimile: 651.735.1102

By:

Kent J. Sieffert
Name: Kent J. Sieffert
Reg. No.: 41,312

DAILY PTO INCOMINGExhibit A**DATE** 5-6-05

DOCKET #	ATTORNEY	SUBJECT MATTER
1028-034US01	KJS	Postcard- IDS
1034-005US01	JDK	Postcard- Amendment
1009-006US01	KJS	" "
1079-023US01	HSG	Postcard- POA
1028-032US01	KJS	Postcard- IDS
1014-107US01	KJS	" "
1079-046US01	HSG	Postcard- Issue Fee
1014-111US01	KJS	Postcard- Assignment
1072-009US01	KJS	Postcard- MP
1079-001US01	HSG	Postcard- Issue Issue Fee
1023-234W001	SJS	First Communication
1023-234W001	SJS	Info. Concerning Elected officer
1008-085US01	KJS	Not. of Publication
1023-372US01	KPF	" "
1037-053US01	SJS	" "
1037-054US01	SJS	" "
1014-027US02	KJS	Status Reply
1037-003US01	KPF	Printed Patents
1080-002US01	HSG	MP

SIGNATURE _____

1072-0010507

HSC

Office Action

1079-048W001

HSE

Invitation

DAILY PTO INCOMING**DATE** 5-9-05

DOCKET #	ATTORNEY	SUBJECT MATTER
1023-492US01	SJS	Postcard- Application
1023-477US01	JDK	" "
1023-493US01	SJS	" "
1023-423US01	SJS	" "
1023-458US01	SJS	" "
1023-480USP1	JDK	" "
1023-481US01	JDK	" "
1023-490US01	SJS	" "
1023-479USP1	JDK	" "
1023-478USP1	JDK	" "
1023-491US01	SJS	" "
1023-329US01	KHB	" "
1023-460US01	SJS	" "
1023-472US01	SJS	" "
1023-473US01	SJS	" "
1023-459US01	SJS	" "
1023-463US01	SJS	" "
1023-484US01	SJS	" "
1014-101US01	KJS	" "

SIGNATURE _____

5-9-05 (Cont.)

1081-003US01	KHB	Postcard - Amendment
1023-349US01	SSS	Postcard - Amendment
1082-002W001	HSG	Postcard - Demand
1014-002W001	KJS	Postcard - MP
1001-334US01	KPF	Postcard - MP
1072-005US01	KJS	Postcard - MP
1072-003US01	KJS	Postcard - Assignment
1072-009US01	KJS	Postcard - Assignment
1079-013US01	HSG	Postcard - IOS
1018-002US04	KJS	" "
1018-002US05	KJS	" "
1079-048US01	HSG	" "
1018-002US03	KJS	" "
1023-428US01	KPF	" "
1028-033US01	KJS	" "
1028-031US01	KJS	" "
1014-055US03	KJS	Issue Notification
1081-009US01	HSG	" "
1081-011US01	HSG	" "

DAILY PTO INCOMING**DATE** 5-9-05 (cont)

DOCKET #	ATTORNEY	SUBJECT MATTER
1079-010USP2	HSG	FR
1023-485USP1	SSS	FR
1080-003USP1	HSG	Corrected FR
1023-023US01	JDK	Updated FR
1081-037US01	HSG	Not. of Acceptance of POA
1081-037US01	HSG	" Regarding Change of "
1081-016US01	KHB	" "
1081-016US01	KHB	Not. of Acceptance of POA
1079-011US01	HSG	" Regarding Change of "
1079-011US01	HSG	" "
1080-003US01	HSG	" "
1034-004W001	SSS	Republished App.
1023-380W001	JDK	Not. of Prescribed Fees
1023-380W001	JDK	Not. of Int'l. App # + Date
1023-380W001	JDK	Communication
1087-003USP1	KPF	Published App.
1023- 003USP1	JDK	Search Report 003USP1
1023-030US01	SJS	Rest. Req.
1018-001US01	KJS	Office Action

SIGNATURE _____

1027-004US01

KJS

Office Action

1021-008US01

KJS

LL VI

1014-022US01

KJS

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DAILY PTO INCOMING**DATE** 5-12-05

DOCKET #	ATTORNEY	SUBJECT MATTER
1014-1024501	KJS	Postcard- Assignment
1014-05511504	KJS	Printed Patent
1081-0334501	HSG	" "
1035-0064501	KJS	FR
1064-1324502	KJS	FR
1037-0124502	SJS	Status Reply
1023-2700001	JDK	Info. Concerning Elected Offices
1023-42840001	KPF	First Communication
1088-0014501	HSG	OA
1037-0234502	SJS	Not of Allowance

SIGNATURE _____

DAILY PTO INCOMING**DATE** 5-13-05

DOCKET #	ATTORNEY	SUBJECT MATTER
1037-065USP1	KPF	Postcard- Application
1004-042US02	KPF	" "
1037-057US01	SSS	" "
1037-056US01	SSS	" "
1081-039US01	HSG	Postcard- Amendment
1079-008US02	HSG	Postcard- Amendment
1072-068US01	KJS	Postcard- MP
1028-006US01	KJS	Postcard- Issue Fee
1081-035US02	HSG	Postcard- PDA
1081-008US01	HSG	Postcard- PDA
1080-601W001	HSG	Pub. App.
1023-238W001	SSS	Pub. App.
1014-065US01	KJS	Status Reply
1077-077US01	HSG	OIA
1078-00WUS08	HSG	FOA

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DAILY PTO INCOMING**DATE** 5-16-05

DOCKET #	ATTORNEY	SUBJECT MATTER
1079-06345 P1	HSG	Postcard - Application
1028-0374501	KJS	Postcard - " "
1079-06245 P1	HSG	" "
1034-0264501	SJS	" "
1023-2004501	SJS	Postcard - Amendment
1037-0374501	SJS	Postcard - Cert. of Correction
1011-0064501	KPF	Postcard - IOS
1014-0624501	KJS	" "
1037-0544501	SJS	" "
1014-0644501	KJS	" "
1014-0634501	KJS	" "
1037-0534501	SJS	" "
1037-0314501	SJS	" "
1074-0064501	JDK	" "
1014-0564501	KJS	" "
1011-0074501	KPF	" "
1020-0094501	SJS	Postcard Issue Fee
1023-3814501	SJS	" "
1068-0014501	KJS	" "
1023-2024501	JDK	Status Reply
1082-0024000	HSG	First Communication

SIGNATURE _____

5-16-05 (Cont.)

1023-434US01	KHB	Postcard - MP
1023-434US01	KHB	Postcard - Assignment
1014-103US01	KJS	Postcard MP
1014-103US01	KJS	Postcard Assignment
1072-005US02	KJS	Postcard MP
1072-005US02	KJS	Postcard Assignment
1023-436US01	KHB	Postcard - MP
1023-436US01	KHB	Postcard Assignment
1074-008US01	JDK	Postcard " "
1074-609US01	JDK	" "
1074-004US01	JDK	" "
1072-008US01	KJS	" "
1072-009US01	KJS	Updated FR
1023-380US01	JDK	FR + MP
1014-111US01	KJS	Updated FR
1023-268US01	SJS	Not. of Publication
1023-478US01	JDK	FR
1014-055US06	KJS	Issue Notification
1014-055US07	KJS	" "
1014-055US12	KJS	" "

DAILY PTO INCOMING**DATE** 5-16-05 (cont.)

DOCKET #	ATTORNEY	SUBJECT MATTER
1082-0014507	HSG	Not of Accept. of POA
1082-0024501	HSG	" "
1079-0134501	HSG	" "
1079-0134501	HSG	Not. regarding Change of POA
1079-0134501	HSG	" "
1035-000501	KJS	Office Action Final
1037-030501	SJS	Advisory Action
1023-0150501	SJS	Final OA
1037-050501	KHB	IPER
1039-0250501	SJS	Search Report/WO
1023-1290501	SJS	Not of Allowance

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DAILY PTO INCOMING**DATE** 5-18-05

DOCKET #	ATTORNEY	SUBJECT MATTER
1023-285W001	SJS	Info. Concerning Elected Offices
1023-292W001	SJS	" "
1023-288W001	SJS	" "
1023-287W001	SJS	" "
1023-284W001	SJS	" "
1023-291W001	SJS	" "
1023-294W001	SJS	" "
1023-290W001	SJS	" "
1023-286W001	SJS	Published App.
1023-284W001	SJS	" "
1023-287W001	SJS	" "
1023-066W001	JDK	" "
1023-294W001	SJS	" "
1023-290W001	SJS	" "
1023-285W001	SJS	" "
1023-291W001	SJS	" "

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DAILY PTO INCOMINGDATE 5/19

DOCKET #	ATTORNEY	SUBJECT MATTER
1014-012US01	KJS	FOA
1037-045US01	SJS	OA
1023-255US01	SJS	NOT of AMENDED
1027-002US01	KJS	FOA
1004-0230501	KJS	FOA
1014-019US01	KJS	FOA
1014-055US11	KJS	Printed Patent
1037-057W001	KPF	Postcard- Application
1023-278W001	SSS	Published App.
1004-085 W001	KJS	" "
1048-005W001	KJS	" "
1023-292W001	SSS	" "
1037-056W001	KPF	Postcard- Application
1081-036US01	HSG	Not. of Acceptance of POA
1081-036US01	HSG	Not. regarding Change of POA
1082-001US01	HSG	Not. of Acceptance of POA
1082-001US01	HSG	Not. regarding Change of POA

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DAILY PTO INCOMING**DATE** 5-20-05

DOCKET #	ATTORNEY	SUBJECT MATTER
1079-006US01	HSG	Not. of Acceptance of POA
1079-006US01	HSG	Not. regarding Change of POA
1023-118US01	JDK	Status Update
1023-199US01	JDK	Status Update
1014-102US01	KJS	Updated FR
1014-055US11	KJS	Printed Patent
1023-258W001	JTS	First Communication
1074-067US01	JDK	Postcard - IDS
1023-428W001	KPF	Not. of Receipt of Demand
1023-370W001	JDK	Not of Receipt of Record Copy

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DAILY PTO INCOMING

DATE _____

DOCKET #	ATTORNEY	SUBJECT MATTER
1066-001US02	KHB	FR + MP
1023-484US01	SJS	FR + MP
1023-458US01	SJS	FR + MP
1018-002US06	KJS	FR
1023-479US01	JDK	FR
1079-062US01	HSG	FR
672-008US01	KJS	Updated FR
1023-480US01	JDK	FR
1023-459US01	SJS	FR + MP
1023-463US01	SJS	FR + MP
1001-334US01	KPF	Updated FR
1014-101US01	KJS	FR
1023-493US01	SJS	FR + MP
1008-603US01	KJS	Status Reply
1072-005US01	KJS	Updated FR
1023-472US01	SJS	FR + MP
1037-052US01	SJS	Not. of receipt of Demand
1081-030US01	HSG	Not. Regarding Change of POA
1081-030US01	HSG	Not. of Acceptance of POA

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5-23-05 (Cont.)

1014-099US01	KJS	Postcard - IDS
108-601US03	KJS	Postcard - Amendment
1021-006US01	KJS	Postcard - Assignment
1001-203US01	KJS	Postcard - Amendment
1064-003US04	SJS	Maint Fee Stmt
1001-207US01	KPF	Adv Action
1037-001US01	SJS	not of Abandonment
1005-005US01	KJS	FOA
1014-003US01	SJS	FOA
1039-006US01		

5-24-05

1014-098US01	KJS	Postcard - IDS
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5/25

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DAILY PTO INCOMING**DATE** 5-26-05

DOCKET #	ATTORNEY	SUBJECT MATTER
1023-4914501	SJS	FR + mp
1023-4604501	SJS	FR + mp
1023-4234501	SJS	FR + mp
1021-0124501	KJS	Recorded Assignment
1021-0134501	KJS	Recorded Assignment
1014-1004501	KJS	" "
1021-0144501	KJS	" "
1023-2244501	JDK	Corrected FR
1014-0554503	KJS	Printed Patent
1081-0094501	HSG	" "
1037-0154501	KPF	Postcard - Amendment
1015-0014501	KHB	Postcard - IDS
1081-0114501	HSG	Printed Patent
1081-0084501	HSG	Not. of Acceptance of P/A
1079-0154501	HSG	Not. regarding change of P/A
1079-0154501	HSG	Not. of Acceptance of P/A
1079-0154501	HSG	Not. regarding change of P/A

SIGNATURE _____

DAILY PTO INCOMING**DATE** 5-31-05

DOCKET #	ATTORNEY	SUBJECT MATTER
1023-346US01	JDK	Postcard - IDS
1023-203US01	JDK	Postcard - IDS
1023-365US01	JDK	" "
1023-364US01	JDK	" "
1023-347US01	JDK	" "
1023-348US01	JDK	" "
1037-036US01	KPF	Postcard - Cert. of Correction
1074-001US01	SJS	Postcard - IDS
1074-001US01	SJS	Recorded Assignment
1057-002US01	SJS	" "
1023-436US01	KHB	Updated FR
1034-013US01	SJS	Recorded Assignment
1023-329US01	KHB	FR + MP
1023-490US01	SJS	FR + MP
1072-005 US02	KJS	Updated FR
1014-103US01	KJS	" "
1011-0030US01	SJS	OA
1023-101US01	SJS	FOIA
1028-004US01	KJS	OA

SIGNATURE _____

1079-030US01	HSG	Not. of Acceptance of POA
1034-009US01	OA	SJS
1014-001US01	KJS	OA
1074-004US01	JDK	Updated FR
1023-434US01	KHB	" "
1074-008US01	JDK	" "
1074-009US01	JDK	" "
1023-271US02	SJS	Status Reply
1023-473US01	SJS	FR + MP
1079-063USP1	HSG	FR
1023-306US03	JDK	Status Reply
1014-055US03	KJS	Published Patent
1081-009US01	HSG	" "
1081-011US01	HSG	" "
1023-380W001	JDK	Not. Receipt of Search Copy
1017-017W001	KJS	Info. Con. Elected Offices
1079-033W001	HSG	Postcard - Application
1023-486USP1	HSG	" "
1023-497US01	HSG	" "
1033-011USP1	KJS	" "
1035-007USP1	KJS	" "
1074-009US01	JDK	Postcard - MP
1014-104US01	KJS	Postcard - MP
1014-104US01	KJS	Postcard - Assignment
1020-012US01	KPF	Postcard - IDS
1004-085US01	KJS	Postcard - IDS

Not. of Correction